

UNCLASSIFIED	CONFIDENTIAL	SECRET
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OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	[REDACTED]		
2	7D 35 HQS.		
3			
4			
5			
6			

ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:

FOLD HERE TO RETURN TO SENDER

DATE	2/10
SECRET	

STATINTL

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM: Legislative Counsel
7D35 HQ

EXTENSION

6136

NO.

DATE

20 January 1976

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

OS/IB
1F16 HQ

1/21

1/21

J.

2.

C/SSD

1/22

RVJ

3.

C/OPS/PSI

1/22/76

D

4.

DD/PSI

1/23/76

D

5.

DD/PSI

27 JAN 1976

27 JAN 1976

D

DD/OS

27 JAN 1976

28 JAN 1976

hps.

6.

D/OS

28 JAN 1976

3 FEB 1976

W

7.

DD/PSI

2/3/76

D

8.

DC/SSD

2/5/76

QWK

9.

C/SSD

2/6/76

RVJ

10.

C/PB - Action per 2/9

J

11.

Comments Below

12.

13.

14.

15.

Attached is my latest draft letter to the Judiciary Committee on Senator Bayh's bill to eliminate the use of the polygraph. It reflects the Office of Security input reflected in Mr. Gambino's memorandum of 17 October. Please have it approved through appropriate OS channels. Thank you.

Assistant Legislative Counsel

3 to 4, 5, & 6: I spoke to [redacted] who agreed that the statement on page 3 re advance interviews by OP and OMS may not be completely accurate. We do not always touch base with these offices on repolygraph cases. If you agree, this can be reworded.

C/Ops/PSI
23 Jan 1976

It's a fine line between D/S.

I would suggest rewording. Too important not to have exactly correct.

STATINTL

DRAFT:DFM:sm (20 Jan 76)

Honorable James O. Eastland, Chairman
Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Senator Bayh's bill S. 1841, "To protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of polygraph-type equipment for certain purposes," has been referred to the Committee on the Judiciary for consideration. The bill would bar Federal agencies as well as private industry from administering examinations to their employees or employment applicants with a polygraph or other instrument which tests the veracity of statements.

The Central Intelligence Agency uses polygraph testing as a part of its security screening process for applicants as well as for its reinvestigation program. After a judgment has been made that an applicant satisfies a manpower need of the Agency, our Office of Security conducts an investigation to determine whether the applicant meets security criteria. One of the later phases of this security investigation is an interview in which the polygraph is employed. The reinvestigation, which is conducted at approximately five-year intervals in an employee's career, is a natural corollary to the rigid initial screening. Its purpose is to detect any hostile exploitation or subversion of "in-place" CIA employees. The polygraph examination during the reinvestigation is limited only to counterintelligence questions.

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In his June 2 statement accompanying the introduction of S. 1841, Senator Bayh expressed willingness to consider the need for a limited use of the polygraph in the intelligence field. I believe the need is clear in the case of the Central Intelligence Agency. The polygraph program is an essential element of our security program, ~~as statistics illustrate~~. During the period 1963 through mid-1974, nearly [REDACTED] applicants for staff or staff-type positions were rejected on security grounds; of this total, over 60 percent were rejected on the basis of information developed principally or solely during polygraph interviews. In a sampling of recent records, 52 percent of applicants who had been disapproved on the basis of information developed during polygraph interviews had already completed all other security screening and been provisionally approved on this basis. Without the polygraph program, the disqualifying information on these cases would have remained unknown. In addition, I believe it is reasonable to presume that the program is a significant deterrent to application for employment by unsuitable candidates, and, more importantly, penetration attempts by foreign intelligence services.

The utility of CIA's polygraph program is not solely a function of its part in contributing information lending to the rejection of unsuitable candidates. The preponderance of polygraph interview reports are favorable. Most of these favorable reports constitute useful and comforting confirmation of other screening procedures; the remainder represent favorable resolutions of allegations or suspicions which otherwise could result in injustices or in unnecessary defensive measures.

We at CIA are aware of the possibilities of abuse of the polygraph program, and we have procedures in effect to forestall abuses and to protect the rights of those taking the examinations. These include:

--each applicant for employment is notified at the time of the application of the intent to use the polygraph. During applicant processing the polygraph procedure and examination coverage is fully explained, and the examination is conducted only after the applicant consents to the interview;

consultation
--advance ~~interviews~~ ^{to} with the Office of Personnel and the Office of Medical Services determine whether a polygraph is advisable;

--the applicant is notified of the privilege against self-incrimination if a question may pertain to a violation of the criminal law;

applicant
--the general content of all polygraph test questions is reviewed before testing to assure that all questions relate directly to security considerations as outlined in Executive Order 10450;

--no questions on religious thought or practices or political affiliation of a non-subversive nature are permitted;

applicant
--the ~~applicant~~ ^{applicant} is told that the examination may be monitored and possibly recorded to let him know there are no hidden procedures;

--there is random monitoring by a specialized supervisor to insure that no improper questions are asked;

--polygraph records are maintained in separate files with very strict need-to-know rules governing access;

--the polygraph examiner makes no recommendation as to the security suitability of the person tested;

--the polygraph report is evaluated as only one element in the total investigative report.

~~In addition to the above, in order to insure that the polygraph examination program adheres rigidly to the established standards,~~ ^{DP} spot interviews and occasional surveys have been conducted with applicants who *to insure that the program adheres to established standards* have completed their polygraph tests. In one such program, several thousand female applicants were interviewed after their polygraph examinations. Feedback from these interviews was utilized to guide polygraph procedures, but the program was finally dropped because the incidence of adverse commentary was too low to justify its continuance.

Finally, the selection of polygraph officers is extremely discriminating as to their qualifications, intelligence, integrity, and high character. They are given a rigorous training program which is a continuing process to keep them abreast of developments in their professional field. To support this program, CIA has maintained a vigorous research effort inquiring into new techniques and equipment to insure that highest standards are maintained.

The National Security Agency also collects and disseminates extremely sensitive foreign intelligence information, and that agency has also found it necessary to use the polygraph as part of its security program. I believe the use of the polygraph by NSA is also fully justifiable, but I refer the Committee to NSA for the details of its program. ^{NSA} If S. 1841 is reported to the Senate by the Judiciary Committee, I strongly urge the Committee to add the following

"(d) This section shall not apply to Central Intelligence Agency and the National Security Agency."

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. E. Colby
Director

17 OCT 1975

MEMORANDUM FOR: Assistant Legislative Counsel
THROUGH : Deputy Director for Administration
SUBJECT : Proposed Letter to the Senate
Judiciary Committee Relative to
the Use of Polygraph by CIA
REFERENCE : Request from OLC for comments on
subject letter, dated 29 September 1975

1. Pursuant to the Office of Legislative Counsel request, the Office of Security has reviewed the proposed letter to the Senate Judiciary Committee relative to the use of polygraph by the Central Intelligence Agency and other federal agencies. As a result of this review, the Office of Security has some recommendations for changes, which if implemented will better state the Agency's position on the proposed bill.

2. Attached is the rewritten letter now incorporating the Office of Security changes. The following is the rationale for each of these changes as shown in the paragraphs of the original letter:

a. Paragraph 1: Grammar of last sentence seemed to require adjustment.

b. Paragraph 2:

(1) ". . . part of its hiring process."
This seems to suggest that polygraphy per se is a hurdle for the applicant to clear rather than a technical aid to the investigative procedure used for security screening.

(2) The first sentence of this paragraph was expanded and a new sentence was added at the end of the paragraph to reflect the use of polygraph in the CIA reinvestigation program.

(3) Several changes in wording and emphasis.

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c. Paragraph 3:

(1) Rewording for clarity.

(2) Office of Security suggests the insertion of an additional paragraph making reference to the positive side of our use of polygraph rather than concentrating exclusively on its negative functions.

d. Paragraph 4:

(1) Regarding "... the danger of abuse inherent in the use of any instrument used to distinguish truths from untruths." The rewording is based on the fact that the Office of Security believes that the concept of distinguishing true from false declarations does not stand out by itself as inherently dangerous, and the application of instrumentation to the process does not inherently change that fact.

(2) Minor rewording for consistency of grammatical structure.


(3) "no polygraph-acquired information can be released. . ." This paragraph could very well entice questions relative to the release of any information from a polygraph file. Furthermore, the stated release provision - national security - is not entirely accurate. Under some circumstances, criminal information could be released to the Attorney General. For these reasons, it is suggested that the paragraph be deleted.

e. Paragraph 5: Minor rewording.

f. Paragraph 6: Minor rewording.

g. Paragraph 7: This paragraph seems more a distraction than an integral part of the argument. Unless there are independent reasons for its inclusion, we suggest dropping it.

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Robert W. Gambino
Director of Security

Attachment

Distribution:

Orig & 1 - Adse

Approved For Release 2002/01/02 : CIA-RDP77M00144R000800130008-5

Honorable James O. Eastland, Chairman
Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Senator Bayh's bill S. 1841, "To protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of polygraph-type equipment for certain purposes," has been referred to the Committee on the Judiciary for consideration. The bill would bar Federal agencies as well as private industry from administering examinations to their employees with a polygraph or other instrument which tests the veracity of statements.

The Central Intelligence Agency uses polygraph testing as a part of its security screening process for applicants as well as for its reinvestigation program. After a judgment has been made that an applicant seems to fit a manpower need of the Agency, our Office of Security conducts an investigation to determine whether the applicant meets security criteria. One of the later phases of this security investigation is an interview in which the polygraph is employed. A medical examination is also a part of the screening procedure, and for the well-being of the applicant this is completed prior to the polygraph interview on the possibility that a polygraph test might be contraindicated for medical reasons. The reinvestigation is a natural corollary to the rigid initial screening. Its purpose is to detect any hostile exploitation or subversion of "in-place" CIA employees.

In his June 2 statement accompanying the introduction of S. 1841, Senator Bayh expressed willingness to consider the need for a limited use of the polygraph in the intelligence field. I believe the need is clear in the case of the Central Intelligence Agency. The polygraph program is a highly productive element of our security program, as some sample statistics may help to illustrate: In an

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analysis we conducted of the period 1963 through mid-1974, we found nearly [REDACTED] applicants for staff or staff-type positions were rejected on security grounds; of this total, over 60% were rejected on the basis of information developed principally or solely during polygraph interviews. In a sampling of recent records, we found that 52% of applicants who had been disapproved on the basis of information developed during polygraph interviews had already completed all other security screening and been provisionally approved on this basis. Without the polygraph program, the disqualifying information on these cases would have remained unknown and these unsuitable individuals would have gained access to some of the U.S. Government's most sensitive information. In addition, I believe it is reasonable to presume that the program is a significant deterrent to application for employment by unsuitable candidates, and, more importantly, penetration attempts by foreign intelligence services.

The utility of CIA's polygraph program is not solely a function of its part in contributing information leading to the rejection of unsuitable candidates. The preponderance of polygraph interview reports are favorable. Most of these favorable reports constitute useful, and comforting, confirmation of other screening procedures; the remainder represent favorable resolutions of allegations or suspicions which otherwise could result in injustices or in unnecessary defensive measures.

We at CIA are aware of the possibilities of abuse of the polygraph program, and we have procedures in effect to forestall abuses and to protect the rights of those taking the examinations. These include:

- each applicant for employment is notified at the time of the application of the intent to use the polygraph. During applicant processing the polygraph procedure and examination coverage is fully reviewed, and then the examination is conducted only after the applicant consents to the interview;

--advance interviews with the Office of Personnel and the Office of Medical Services determine if information has been developed as a result of their screening procedures that might preclude the advisability of conducting a polygraph interview;

--the applicant is notified of the privilege against self-incrimination if a question may pertain to a violation of the criminal law;

--the general content of all polygraph test questions is reviewed before testing to assure that all questions relate directly to security considerations as outlined in Executive Order 10450;

--the applicant is told that the examination may be monitored and possibly recorded to let him know there are no hidden procedures;

--there is random monitoring by a specialized supervisor to insure that no improper questions are asked;

--polygraph records are maintained in separate files with very strict need-to-know rules governing access;

--the polygraph examiner makes no recommendation as to the security suitability of the person tested;

--the polygraph report is evaluated as but one element in the total investigative report.

In addition to the above, in order to insure that the polygraph examination program adheres rigidly to the established standards, spot interviews and occasional surveys have been conducted with applicants who have completed their polygraph tests. In one such program, several thousand female applicants were interviewed after their polygraph examinations. Feedback from these interviews was utilized to guide polygraph procedures, but the program was finally dropped because the incidence of adverse commentary was too low to justify its continuance.

Finally, the selection of polygraph officers is extremely discriminating as to their qualifications, intelligence, integrity, and high character. They are given a rigorous training program which is a continuing process to keep them abreast of developments in their professional field. To support this program, CIA has maintained a vigorous research effort inquiring into new techniques and equipment to insure that highest standards are maintained.

The National Security Agency also collects and disseminates extremely sensitive foreign intelligence information, and that agency has also found it necessary to use the polygraph as part of its security program. I believe the use of the polygraph by NSA is also fully justifiable, but I refer the Committee to NSA for the details of its program. If S. 1841 is reported to the Senate by the Judiciary Committee, I strongly urge the Committee to add the following amendment to proposed section 246 of Title 18:

"(d) This section shall not apply to Central Intelligence Agency and the National Security Agency."

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. E. Colby
Director